

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION**

MELANIE SWAN

* **DOCKET NO. 07-0693**

VERSUS

* **JUDGE JAMES**

RICHARD FEWELL, ET AL.

* **MAGISTRATE JUDGE HAYES**

REPORT AND RECOMMENDATION

On May 23, 2007, plaintiff, Melanie Swan, was allotted 30 days to enroll new legal counsel, or to file a notice of intent to continue representing herself *pro se*. (May 23, 2007, Order). Plaintiff failed to comply with the order and did not otherwise seek an extension of time. Accordingly, on June 27, 2007, Plaintiff was ordered to show cause, in writing, on or before the 11th day of July, 2007, why her complaint should not be **DISMISSED** With Prejudice for failure to comply with an order of this Court in accordance with the provisions of FRCP Rule 41(b). This period has since lapsed, and no response has been filed by Plaintiff.

LAW AND ANALYSIS

Federal Rules of Civil Procedure Rule 41(b) permits dismissal of claims “[f]or failure of the plaintiff to prosecute or to comply with ... any order of court...” The district court also has the inherent authority to dismiss an action *sua sponte*, without motion by a defendant. *Link v. Wabash R.R.Co.*, 370 U.S. 626, 630-31, 82 S.Ct. 1386, 1388-89 (1962). “The power to invoke this sanction is necessary in order to prevent undue delays in the disposition of pending cases and to avoid congestion in the calendars of the [d]istrict [c]ourts.” *McCullough v. Lynaugh*, 835 F.2d 1126, 1127 (5th Cir.1988).

In light of plaintiff’s repeated failure to comply with, or respond to court orders,

IT IS RECOMMENDED that plaintiff's complaint be **DISMISSED WITH PREJUDICE** in accordance with the provisions of FRCP Rule 41(b).

Under the provisions of 28 U.S.C. §636(b)(1)(C) and FRCP Rule 72(b), the parties have **ten (10) business days** from service of this Report and Recommendation to file specific, written objections with the Clerk of Court. A party may respond to another party's objections within **ten (10) business days** after being served with a copy thereof. A courtesy copy of any objection or response or request for extension of time shall be furnished to the District Judge at the time of filing. Timely objections will be considered by the District Judge before he makes a final ruling.

A PARTY'S FAILURE TO FILE WRITTEN OBJECTIONS TO THE PROPOSED FINDINGS, CONCLUSIONS AND RECOMMENDATIONS CONTAINED IN THIS REPORT WITHIN TEN (10) BUSINESS DAYS FROM THE DATE OF ITS SERVICE SHALL BAR AN AGGRIEVED PARTY, EXCEPT ON GROUNDS OF PLAIN ERROR, FROM ATTACKING ON APPEAL THE UNOBJECTED-TO PROPOSED FACTUAL FINDINGS AND LEGAL CONCLUSIONS ACCEPTED BY THE DISTRICT JUDGE.

THUS DONE AND SIGNED in Chambers at Monroe, Louisiana, this 18th day of July, 2007.



KAREN L. HAYES
U. S. MAGISTRATE JUDGE